

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

W.C. HERAEUS GMBH (a German corporation),)	
and HERAEUS INCORPORATED (a Delaware)	
corporation))	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 04-904 (KAJ)
)	
MARJORIE JOY LYNN as Personal Representative))	
for the ESTATE OF DAVID MARK LYNN and as))	
Trustee of the MARK AND MARJORIE LYNN))	
REVOCABLE TRUST, LYNN PLASMA, INC.))	
(an Idaho corporation), NXEDGE, INC.))	
(a Delaware corporation), and NXEDGE INC. OF))	
BOISE (a Delaware corporation)))	
)	
Defendants.)	

JOINT STIPULATION MOOTING ISSUES OF CLAIM CONSTRUCTION

Plaintiffs W.C. Heraeus GmbH and Heraeus Inc. (collectively, "Plaintiffs") and the defendants, Marjorie Joy Lynn, as personal representative for the Estate of David Mark Lynn and as Trustee of the Mark and Marjorie Lynn Revocable Trust, and Lynn Plasma, Inc. (collectively "the Lynn Defendants"), and NxEdge, Inc. and NxEdge Inc. of Boise (collectively, "NxEdge"), hereby stipulate, subject to the approval of the Court, as follows:

1. Plaintiffs allege that Lynn Plasma, Inc. and NxEdge have infringed one or more claims of U.S. Patent No. 6,375,815 (the '815 patent). The Lynn Defendants and NxEdge dispute whether there has been any technical infringement of any claim of the '815 patent because they allege that Lynn Plasma, Inc. and NxEdge had certain contractual rights to the '815 patent. Claim 1 is the sole independent claim of the '815 patent.

2. The primary limitations of claim 1 are: a "support spindle," a "cylindrical target structure," a "clamping collar," and a "retainer ring." The parties do not dispute the meaning of these or other limitations of the claim. Lynn Plasma, Inc. and NxEdge have made and/or

distributed, and NxEdge continues to make and distribute, the “cylindrical target structure,” “clamping collar,” and “retainer ring,” as recited in Claim 1 of the ‘815 patent. They do not make or use the “support spindle.” The Lynn or NxEdge components are used by a glass manufacturer in conjunction with a “support spindle.” When combined by the glass manufacturer, the apparatus includes all limitations as recited in Claim 1 of the ‘815 patent.

3. The parties do not dispute the meaning of the terms (including all claim elements and limitations) of any of the claims of the ‘815 patent, or the application of the elements of the claims to the components made and/or distributed by Lynn Plasma, Inc. and NxEdge.

4. In light of the parties’ stipulations set forth above in paragraphs 1 to 3, it is now unnecessary for the Court to construe the claims of the ‘815 patent. As a result, the following events/deadlines set forth in the Court’s March 8, 2005 Scheduling Order (D.I. 40) are rendered moot and the parties hereby request that these events/deadlines be taken off the Court’s calendar:

- a) the exchange of a list of patent claim terms/phrases that the parties believe need construction and their proposed claim construction of those terms/phrases on December 15, 2005 (D.I. 40 at paragraph 11);
- b) the filing of a joint claim construction chart with this Court (*id.*); and,
- c) the submission of issues of claim construction to the Court, currently set for no later than January 30, 2006 (*id.* at paragraph 12).

Unless otherwise agreed to by the parties and/or ordered by this Court, this stipulation is not intended to alter the technology tutorial that is currently set for December 21, 2005 or the hearing on summary judgment that is currently set for March 31, 2006 (*id.* at paragraphs 9 and 13).

MORRIS, NICHOLS, ARSHT & TUNNELL CONNOLLY BOVE LODGE & HUTZ

/s/ Leslie A. Polizoti

/s/ Kevin M. Baird

Karen Jacobs Loudon (#2881)
Leslie A. Polizoti (#4299)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
Attorneys for Plaintiffs

Kevin M. Baird (#4219)
The Nemours Building
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19801
(302) 252-4234
Attorneys for Defendants

SO ORDERED this ____ day of August, 2005.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2005, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to Kevin M. Baird and Karen Jacobs Loudon.

I also certify that on August 16, 2005, I caused to be served true and correct copies of the foregoing document on the following in the manner indicated below:

BY HAND

Kevin M. Baird
CONNOLLY BOVE LODGE & HUTZ LLP
The Nemours Building
1007 N. Orange Street
P.O. Box 2207
Wilmington, DE 19899

BY FEDERAL EXPRESS

B. Newal Squyres
HOLLAND & HART LLP
U.S. Bank Plaza
101 S. Capitol Blvd., Suite 1400
Boise, ID 83702

Lawrence D. Graham
BLACK LOWE & GRAHAM, PLLC
701 Fifth Ave., Suite 4800
Seattle, WA 98104

/s/ Leslie A. Polizoti
MORRIS, NICHOLS, ARSHT AND TUNNELL
(302) 658-9200
lpolizoti@mnat.com